

1 ROBERT W. FREEMAN  
Nevada Bar No. 003062  
2 DANIELLE C. MILLER  
Nevada Bar No. 009127  
3 LEWIS BRISBOIS BISGAARD & SMITH LLP  
6385 S. Rainbow Boulevard, Suite 600  
4 Las Vegas, Nevada 89118  
702.893.3383  
5 FAX: 702.893.3789  
*Attorneys for Defendant*  
6 *Clark County*

7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

9 \*\*\*

10 BENSON CRUMBLER,

11 Plaintiff,

12 vs.

13 CLARK COUNTY, a political subdivision of  
the State of Nevada; DOES I-V; and ROES  
14 VI-X,

15 Defendants.

JCM

CASE NO. 2:16-cv-0567-~~GMN~~-NJK

**CONFIDENTIALITY AGREEMENT  
AND PROTECTIVE ORDER**

**AS AMENDED, PAGE 5**

16  
17 Plaintiff Benson Crumbler, by and through his counsel of record Dan M. Winder, Esq. and  
18 Arnold Weinstock, Esq., and Defendant Clark County, by and through its attorney, Robert W.  
19 Freeman, Esq., hereby agree and stipulate as follows:

20 1. The parties enter into this Stipulation and Protective Order under Federal Rule of  
21 Civil Procedure 26(c) to establish procedures for the handling of documents produced by the  
22 parties in response to discovery requests.

23 2. Any party may designate and mark certain documents produced in response to  
24 discovery requests as "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER." The party  
25 designating such documents shall be referred to as the Designating Party and any party in receipt  
26 of such documents shall be referred to as the Receiving Party. Documents so marked may be used  
27 only for purposes of this litigation.

28 3. Except as otherwise ordered by this Court, documents marked "CONFIDENTIAL"

1 or "SUBJECT TO PROTECTIVE ORDER" and the contents of documents so marked may be  
2 disclosed only to employees or agents of Clark County, Nevada, and the following persons:

- 3 (a) counsel of record for Plaintiff and Plaintiff;
- 4 (b) counsel of record for Defendant;
- 5 (c) the non-technical and clerical staff employed by counsel of record;
- 6 (d) interpreters and copying services employed by counsel of record's employer  
7 to the extent reasonably necessary to render professional services in this case;
- 8 (e) any private court reporter retained by counsel for depositions in this case;
- 9 (f) subject to the terms of paragraph 5, persons retained by counsel to serve as  
10 expert witnesses or consultants in this case; and
- 11 (g) personnel of the Court, including court reporters, officials and employees of  
12 the Clerk of Court, and staff of the presiding United States District Judge and United States  
13 Magistrate Judge, to the extent deemed necessary by the Court.

14 4. If counsel for a Receiving Party determines that it is necessary to disclose any  
15 document marked "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" to any  
16 persons other than the individuals included in paragraph 3, that counsel shall set forth the grounds  
17 for the disclosure and seek the written consent of counsel for the Designating Party. The  
18 Designating Party shall respond to the Receiving Party's request within seven calendar days unless  
19 the Receiving Party agrees to a longer period. If counsel for the Designating Party does not  
20 consent, counsel for the Receiving Party and counsel for the Designating Party shall within five  
21 court days of the Designating Party's response meet and confer in person or telephonically  
22 regarding the issue, during which meeting and conference counsel for the Receiving Party shall  
23 specify the reasons why disclosure is necessary. If any agreement is not reached, the Designating  
24 Party shall move the Court within the ten calendar days of the meeting and conference for a  
25 protective order preventing disclosure. The Receiving Party shall not disclose the document unless  
26 the Designating Party has failed to file a motion within the time allowed or the Court has denied  
27 the motion.

28 5. If counsel for the Receiving Party determines that it is necessary to disclose any

1 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to an expert  
2 or consultants retained to render professional services in this case, that counsel shall notify counsel  
3 for the Designating Party in writing at least seven days before the proposed disclosure with the  
4 name of the expert or consultant. The Designating Party shall respond to the Receiving Party’s  
5 notification within seven calendar days unless the Receiving Party agrees to a longer period. If  
6 counsel for the Designating Party objects, counsel for the Receiving Party and counsel for the  
7 Designating Party shall within five court days of the Designating Party’s response meet and confer  
8 in person or telephonically regarding the issue. If an agreement is not reached, the Designating  
9 Party shall move the court within ten calendar days of the meeting and conference for a protective  
10 order preventing disclosure. The Receiving Party shall not disclose the document unless the  
11 Designating Party has failed to file a motion within the time allowed or the Court denies the  
12 motion.

13         6. Any party may object to the propriety of the designation of documents as  
14 “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” by objecting and setting forth in  
15 writing the grounds for the objection. The Designating Party shall respond to the Receiving  
16 Party’s objection within seven calendar days unless the Receiving Party agrees to a longer period.  
17 If an agreement is not reached, counsel for the Receiving Party and counsel for the Designating  
18 Party shall within five court days of the Designating Party’s response meet and confer in person or  
19 telephonically, during which meeting and conference counsel for the Receiving Party shall specify  
20 the grounds for objection with respect to each document at issue. If the parties cannot agree, then  
21 the Designating Party will then have ten calendar days after the conference of counsel to file a  
22 motion to preserve the confidentiality designation. The burden of proof to demonstrate  
23 confidential treatment of any information at all times remain with the Designating Party. The  
24 parties shall treat the documents as the subject to this Stipulation and Order unless the Designating  
25 Party has failed to file a motion within the time allowed or the Court has denied the motion.

26         7. Before disclosing any document marked “CONFIDENTIAL” or “SUBJECT TO  
27 PROTECTIVE ORDER” to any person identified in subparagraph (c) of paragraph 3, counsel of  
28 record for the Receiving Party shall advise that person of the terms of this Stipulation and

1 Protective Order and that he or she is bound by those terms. In addition, before disclosing any  
 2 document marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER” to any person  
 3 identified in subparagraphs (d), (e), or (f) of paragraph 3, counsel for the Receiving Party shall  
 4 ensure that the person (1) has read and agrees to the terms of this Protective Order and (2) has  
 5 acknowledged his or her agreement by signing a copy of the attached Acknowledgment before any  
 6 such document is disclosed to him or her:

#### 7 ACKNOWLEDGMENT

8 I have read the Stipulation and Protective Order Governing Documents Produced by the  
 9 Parties in this case. I understand its terms and agree to be bound by the terms of the Protective  
 10 Order. I understand that my duties under the Protective Order will survive the termination of this  
 11 case and that failure to comply with its terms may result in the District Court imposing sanctions  
 12 on me. I consent to personal jurisdiction of the United States District Court for the District of  
 13 Nevada for the purpose of enforcing the Protective Order.

14 8. Counsel for each party shall retain copies of the Acknowledgment forms executed  
 15 by persons authorized for access on behalf of that party until this litigation, including all appeals,  
 16 concludes. Nothing in this Protective Order restricts the Designation Party’s own disclosure of  
 17 documents marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.”

18 9. Any person receiving access to a document marked “CONFIDENTIAL” or  
 19 “SUBJECT TO PROTECTIVE ORDER” shall maintain the document, any copies of the  
 20 document, and any information derived from the document in a confidential manner and shall take  
 21 steps to avoid disclosure to persons not authorized under this Order to have access to the  
 22 documents or information.

23 10. Within thirty days of the conclusion of this litigation, including all appeals, counsel  
 24 for the Receiving Party shall destroy or send to counsel for the Designating Party all copies of  
 25 documents marked “CONFIDENTIAL” or “SUBJECT TO PROTECTIVE ORDER.”

26 Notwithstanding this paragraph, however, the parties’ attorneys may retain one copy of  
 27 each document filed with the Court that contains or refers to any of the designated documents.  
 28 Furthermore, nothing in this paragraph shall be construed to require the parties’ attorneys to

1 disclose any attorney work-product to opposing counsel.

2 11. In connection with a deposition in this case, a witness or any counsel may indicate  
3 that a question or answer refers to the content of a document marked "CONFIDENTIAL" or  
4 "SUBJECT TO PROTECTIVE ORDER." If the indication occurs on the record during the  
5 deposition, all persons not authorized to review such documents shall leave the deposition room  
6 until completion of the answers referring to the document and the reporter shall mark the transcript  
7 of the designated testimony "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER."

8 ~~12. If any party wishes to submit into the written record of this case any document~~  
9 ~~marked "CONFIDENTIAL" or "SUBJECT TO PROTECTIVE ORDER" or excerpts from any~~  
10 ~~such document, that party shall seek to submit the document under seal.~~

11 ~~12. Papers filed with the Court under seal shall be accompanied by a motion for leave~~  
See order issued  
concurrently herewith ~~documents under seal addressing the specific reasons for filing these documents under~~

13 ~~seal pursuant to *Kamakana v. City of Cnty. Of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), and shall~~  
14 ~~be filed in accordance with the Court's electronic filing procedures. If papers are filed under seal~~  
15 ~~pursuant to prior Court order, the papers shall bear the following notation on the first page,~~  
16 ~~directly under the case number: "FILED UNDER SEAL PURSUANT TO COURT ORDER~~  
17 ~~DATED \_\_\_\_."~~ All papers filed under seal will remain sealed until such time as the Court may  
18 ~~deny the motion to seal or enter an order to unseal them, or the documents are unsealed pursuant~~  
19 ~~to Local Rule.~~

20 14. Nothing in this Stipulation and Protective Order prevents any party from  
21 challenging any assertion of privilege by any party, and nothing in this Stipulation and Protective  
22 Order constitutes a waiver of any assertion of privilege by any party or precludes any party from  
23 moving for consideration of information ex parte and in camera.

24 ///

25 ///

26 ///

27 ///

28 ///

1           15.     Anyone found to be in violation of this Order may have sanctions imposed against  
2 him or her as the Court may determine and allowable under law and may also be subject to  
3 contempt of court proceedings.

4 DATED this 7<sup>th</sup> day of June, 2016.

5 LEWIS, BRISBOIS, BISGAARD & SMITH

6  
7 /s/ Robert W. Freeman

8 Robert W. Freeman, Esq.

9 Nevada Bar No. 003062

10 Danielle C. Miller, Esq.

11 Nevada Bar No. 009127

12 6385 S. Rainbow Boulevard, Suite 600

13 Las Vegas, Nevada 89118

14 *Attorney for Defendant Clark County*

15 DATED this 7<sup>th</sup> day of June, 2016.

16 LAW OFFICE OF DAN M. WINDER, P.C.

17  
18 /s/ Scott C. Dorman

19 Dan M. Winder, Esq.

20 Nevada Bar No. 001569

21 Arnold Weinstock, Esq.

22 Nevada Bar No. 000810

23 Scott C. Dorman, Esq.

24 Nevada Bar No. 013108

25 Matthew J. Peirce, Esq.

26 Nevada Bar No. 006449

27 3507 E. Charleston Boulevard

28 Las Vegas, Nevada 89102

*Attorneys for Plaintiff*

**ORDER**

IT IS SO ORDERED.

DATED June 9, 2016.

  
\_\_\_\_\_  
U.S. MAGISTRATE JUDGE